Hospital Accountability Project

Memorial University Medical Center

A project of nonprofit consumer advocacy group Georgia Watch, the Hospital Accountability Project examines the financial practices of nonprofit and for-profit hospitals in the state as in regards to health care consumers and affordability.

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Executive summary

When it comes to crucial health care decisions, consumers are consistently denied the fundamental options and choices that are available in other consumer-driven industries. While there are many different causes for this lack of consumer control, one major factor is the absence of straightforward and clear information. For health care consumers, details on the most basic information – such as pricing and financial assistance eligibility – are scarce.

Compounding the problem for consumers is the complexity of health care treatment, and the increasingly prevalent role of insurance providers in all aspects of the health care industry.

The complications of the current health care system also create opportunities for hospitals to distort the true amount of revenue they accrue each year. A financial examination of some state tax-exempt nonprofit hospitals reveals sizeable sums of cash on hand, investments in new facilities outside of home counties, million-dollar compensation packages to high-level hospital executives, and/or only the bare minimum of expenditures on health services for uninsured and indigent patients.

Many of these tax-exempt nonprofit hospitals – including Memorial University Medical Center – charge uninsured patients significantly higher costs for services than average payments received from most third party payers, such as private insurance, Medicare and Medicaid. Recently, Memorial has struggled under the costs of operating the only Level 1 trauma center serving southeast Georgia. The hospital has reported dramatic drops in revenue, which have resulted in layoffs and reduced benefits to the community at large.

For example, Memorial reported:

- An overall 263 percent mark-up over prices;
- A bottom line surplus spike from $3.9 million to $49.7 million between 2002 and 2003;
- A reported drop in surplus funds of more than $24 million between 2005 and 2006;
- A settlement of $5.08 million paid in connection to a four-year investigation of regarding Medicaid dollars being improperly paid to physicians at a Memorial-owned entity; and,
- High executive compensation packages rivaling that of top-tier for-profit executives.

As the recession continues, both Memorial and the consumers it serves struggle under the costs of health care costs. State lawmakers, key hospital executives, community leaders and consumers must work together to overcome what is a crisis of affordable care.

INTRODUCTION

More than 80 percent of hospitals in Georgia operate as tax-exempt nonprofit organizations, including Memorial University Health Center (Memorial) in Savannah. In recent years, most every major urban hospital in Georgia has become a tax-exempt nonprofit organization governed by a nonprofit board.

Hospitals formed under the umbrella of the Hill-Burton Act of 1946 are obligated to provide accessible and affordable health care, regardless of a patient's ability to pay. These health care services are generally referred to as "community benefits" and include charity and indigent care.

In return, these facilities are typically subsidized by state and local governments. For example tax-exempt nonprofit hospitals do not pay most taxes, including sales, income and property taxes. Because of this, tax-exempt nonprofit hospitals do not contribute to vital local infrastructure, such as road and sewer maintenance, or police and firefighter forces, even though they utilize these services.

Under IRS law[i], a tax-exempt nonprofit hospital, classified as a 501(c)(3) charity, should:

- **Have a mission to provide community benefit:** This is crucial to receiving tax-exempt status, which allows a group to sidestep property, income and sales tax. Federal law requires tax-exempt organizations to have a clearly defined mission statement that commits the institution to its core charity.
- **Use profits for good:** By their very nature, nonprofit hospitals should not be profitable. If they do generate a surplus, those funds and resources must be reinvested back into the hospital in a way that benefits the community, as required by both state and federal laws. Compensation for executives and others must be in accordance to fair market value.
- **Financial accountability:** No portion of net earnings goes to the benefit of any private shareholder or individual.[ii] Money paid as compensation to executives and other employees should be fair and not excessive.
- **Remain accountable to the community:** According to IRS regulations, the organization's board of trustees must hold itself accountable to its community for maximizing the organization's contribution to the community.
- **No politicking:** A tax-exempt nonprofit organization is prohibited from participating in political campaigns for or against candidates, or lobbying as a substantial part of their activities.

The Congressional Budget Office estimates that nonprofit hospitals receive $12.6 billion in annual tax exemptions, a figure that does not include the $32 billion in federal, state and local subsidies the hospital industry receives each year.[iii] Local property tax exemptions account for the largest amount of savings for tax-exempt nonprofit hospitals and medical facilities. Exemptions from state and federal taxes are the next largest amounts.

Recent debate at the federal and state level brings into question the value of community benefits reported by tax-exempt nonprofit hospitals, which account for close to half the total revenues of Section 501(c)(3) organizations in the US.

MEMORIAL UNIVERSITY MEDICAL SYSTEM

Serving a 35-county area, nonprofit hospital Memorial University Medical System is one of southeast Georgia's primary safety net hospitals. The hospital system has approximately 530 beds at its main facility in Chatham County – Memorial University Medical Center – which operates the region's only Level 1 trauma center and treats a high level of Medicaid, indigent and charity care patients. Memorial is Chatham County's largest non-profit employer, with approximately 5,000 employees in 2007.

Memorial's major clinical programs include the Curtis and Elizabeth Anderson Cancer Institute, the Heart and Vascular Institute, the Backus Children's Hospital and the Rehabilitation Institute.

Memorial's trauma center and neonatal intensive care unit are the regional referral centers for a 40-county area that includes south, southeast and southwest Georgia.

Chatham County was home to 248,469 people in 2007, and the median household income was $39,910 – less than the state average ($46,832) and the national average ($48,451) for the same year. A September 2006 study by the Georgia Institute of Technology Center for Quality Growth and Regional Development projects the Savannah metro-area population will increase to 380,341 by 2015.

Nonprofit and for-profit subsidiaries

The Provident Corporation the parent company of Memorial University Medical Center, is a for profit company. It has a separate board from that of the hospital. Former long-time Memorial CEO Bob Colvin was president and CEO of all Provident holdings, including its running of the hospital, which is technically still owned by the Chatham County Hospital Authority. In addition to its main facility, Memorial University Medical System owns and operates dozens of facilities and companies, the bulk of which are for-profit entities. From Fiscal Year 1999 to 2005, for example, Memorial owned a total 60 entities. Only six were nonprofit groups, including the main facility. Colvin has been listed as the registered agent of 72 different companies.

Recent nonprofit holdings include:

- Georgia Ear Institute
- Georgia Eye Institute
- Memorial Health TransportOne
- Memorial Health Trust

Recent for-profit holdings include:

- 4600 Waters Avenue Professional Condominium Association
- Cardiovascular and Thoracic Surgery Associations
- Diagnostic Imaging Associates
- Georgia Healthcare Partnership
- Georgia Neurological Institute
- Memorial CareOne Home Health Services
- Occupational Health Systems
- Physicians Managed Care Organization
- Practice Management Resources of MHS
- Provident Eye Physicians
- Provident Health Services
- Provident Professional Building Condominium Association
- Psychiatric Group of the Coastal Empire
- Savannah Midtown Properties
- Adult Cardiology
- Chatham Medical Associates

Memorial also operates Memorial Professional Assurance Corporation, a for-profit medical malpractice insurance agency, domiciled in the Cayman Islands. This is their insurance company as they are self-insured for all of the employees. By holding the dollars in the Cayman Islands, they are not subject to federal law.

Chatham County Hospital Authority

Established by an act of the legislature in 1969, the Chatham County Hospital Authority is run by a nine-member board serving staggered six-year terms. The Authority was established to build Memorial Hospital with funding available through the Hill-Burton Act. In the late 1980's, the Authority formed Memorial Medical Center, Inc., a nonprofit to run the hospital. Provident Corporation grew from this to handle the for-profit entities.

Chatham County Commissioners select the authority members by a majority vote, and commissioners are able to appoint themselves. Authority members receive no salary or noted compensation.

The Chatham County Hospital Authority acts as a transfer account for funds between the state and the Memorial University Medical System. If the hospital takes on debt for construction or other ventures, the authority issues bonds and/or other financing. The authority also holds the lease for the hospital system's property, and oversees property and infrastructure decisions. It has the right to approve management, contracts, and other items. It is the only entity that can legally provide the intergovernmental transfer for ICTF and other governmental funds.

Past its role as a hospital authority, Chatham County has not financially contributed to Memorial's hospital services since the mid-1990s, except for annual payments that help provide for ambulance services to the west and eastside of the county. By Georgia law, county hospital authorities may engage a nonprofit entity to manage the hospital on its behalf, but the authority maintains ownership and all liabilities.

<u>Memorial as a safety net hospital</u>

A safety net hospital is committed to providing high levels of indigent and charity care, serving the area's low-income, uninsured and "vulnerable" populations. Vulnerable populations have little to no access to stable health care coverage, and are often the uninsured, low-income underinsured, Medicaid beneficiaries and patients with special health care needs.

The National Association of Public Hospitals reports that its safety net members, which account for two percent of all hospitals, provide 25 percent of the nation's uncompensated care.

Safety net providers are defined as those who:

- By mission or legally-adopted mandate, the facility has an "open door" policy to offer services to all patients, regardless of ability to pay; and
- A significant percentage of the patient mix is either uninsured, covered by Medicaid or is otherwise considered vulnerable.

Because of their patient mix – largely vulnerable – safety net hospitals face unique challenges. For example, vulnerable populations are more likely to delay seeking care for illness or injury, which often results in the need for a higher level of care once they do seek medical help.
These groups are also less likely to seek preventative care, a factor that can lead to late diagnoses for diseases such as cancer, and chronic conditions such as diabetes and high cholesterol levels.

As a result, vulnerable populations may be three times more likely than privately insured individuals to experience adverse health outcomes, and four times more likely than insured patients to require hospitalization and expensive emergency care.

For some of these patients, federal, state and local governments will subsidize the health care costs through ITCF or Medicaid reimbursements. Uninsured and underinsured patients not eligible for indigent or charity care may struggle to pay their medical bills, and can fall into debt or bankruptcy. Safety net hospitals are left with the unpaid medical bills.

There are approximately 1,300 public "safety net" hospitals in the country – 300 fewer than just 15 years ago. Many have closed due to financial strain, including facilities in Los Angeles, Washington, St. Louis and Milwaukee. Public hospitals in major metropolitan areas, including Chicago, Miami and Memphis, are currently facing severe financial shortfalls and must receive immediate assistance to stall or stop closure. For example, Grady Memorial Hospital in Atlanta recently underwent a major organizational shift to a private nonprofit governing board in hopes of increasing private and public funding.

The number of medically uninsured citizens in Chatham County, where Memorial is located, is growing at a rate faster than the ability of community centers to build capacity. [iv] In 2006, approximately 45,000 citizens were medically uninsured in Chatham County. The majority are women working in small businesses or in jobs that don't pay benefits. While Chatham County does have a network of community centers and clinics that cater to the uninsured population, none offer emergency services.

The Mercer School of Medicine

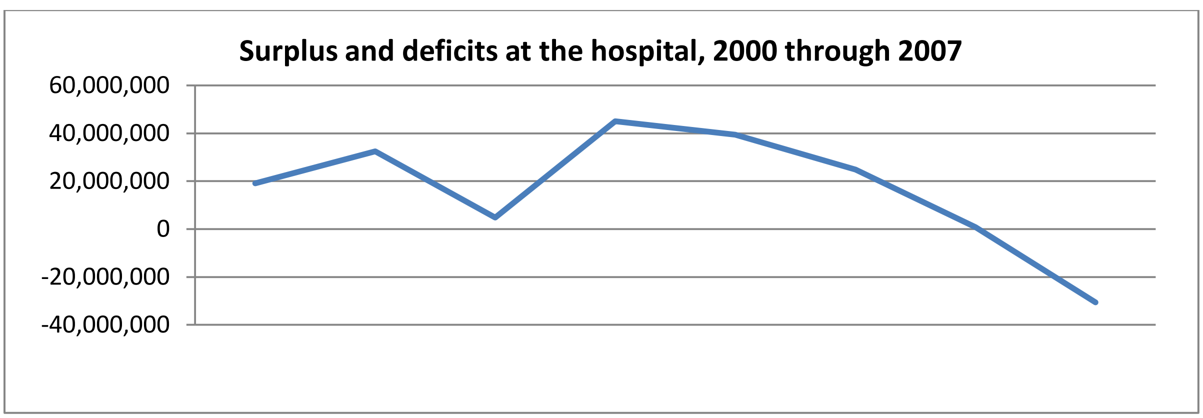
Thirty first-year medical students and 10 third- and fourth-year students will begin classes in September 2008 at Memorial, which now hosts a Savannah campus of the Mercer University School of Medicine. Dr. Robert Hash, senior associate dean of the Savannah campus, told the *Savannah Morning News* the 30 students will be the first step in a planned health science center, which will train as many as 100 physicians by 2018.

Most of Memorial's financial participation will be in-kind, such as donating education space the hospital system no longer uses. The Mercer-Memorial program will receive $50.5 million in funding over six years, which will include state, research and tuition dollars.

MEMORIAL BY THE NUMBERS

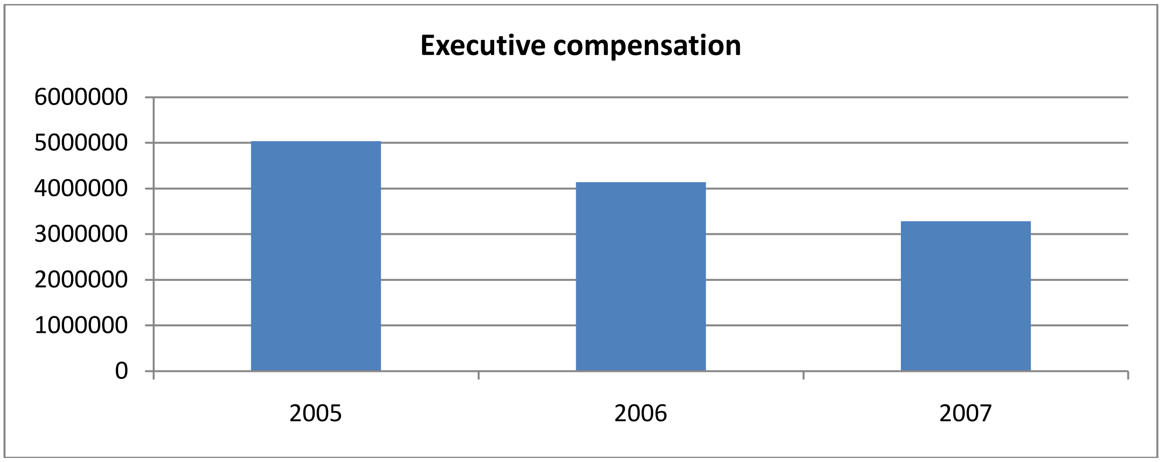
Traditionally, Memorial has enjoyed a fair amount of surplus. However, Memorial executives have announced severe financial shortfalls for Fiscal Years 2006 and 2007.[v]

Memorial University Medical Center and Related Entities, as of Fiscal Year 2007



Executive compensation

Executive compensation at Memorial is notable when compared to other tax-exempt nonprofit entities – even those that operate on a much larger scale.



Unlike most key employees, who were compensated directly through Memorial, former CEO Bob Colvin was, for the majority of his time at the hospital, employed through Quorum Health Resources, a management group based in Nashville, Tenn. Thus, it is difficult to ascertain exactly how much compensation Colvin received in certain years.

In April 2008, Colvin was fired by the hospital system's 13-member Board of Directors. The decision was made shortly before Memorial announced a $5.08 million settlement in a federal lawsuit over allegations of kickback schemes. Memorial also had reported a possible deficit of more than $35 million for 2007.

The hospital system will pay Colvin a year's salary of $646,984 for their early termination of his contract. According to press reports, a separate contract provided Colvin with an "executive retirement agreement" allowing for additional personal funds, and a 401(k) retirement plan. The value of that contract – and subsequent payout – was unavailable.

Financial Losses

In December 2006, Memorial Health chief financial officer Suzanne Heck resigned after it was reported the medical system would see a deficit for the first time in nearly a decade. At the time, then-CEO Robert Colvin claimed "financial management actions" concealed an impending budget shortfall, which did not allow management to handle the situation. Heck reportedly moved contractual adjustments for Medicaid (an expense) to Accounts Receivable (an asset). The hospital also experienced a large drop in the amount of Upper Payment Limits (UPL) payments in 2003, which accounted for a majority of its profits. The hospital reportedly did not adjust its budget accordingly.

Among the reasons cited for the financial shortfall were: low Medicaid and Medicare reimbursements, the cost of uncompensated treatment for indigent patients, an unusually high amount of trauma care for indigent and charity care patients, and the cost of hosting a Level 1 trauma center.

For patients who do pay out of pocket for services, Memorial now requires up-front payment of bills for scheduled procedures and non-emergency care. Memorial has also cut about 500 jobs in the last two years.

In January 2008, approximately 130 employees – and an additional 50 unfilled positions – were let go in an effort to reduce the hospital system's growing deficit. This staff reduction represented about four percent of the hospital system's total employee roster. At the time, Memorial officials estimated the savings to the hospital system at approximately $15 million.

In interviews with the local press, Colvin cited "a dramatic surge in violent crimes" as a primary reason indigent and charity care figures increased more than $20 million in 2006.[vi]

"The number of unfunded trauma cases caused by violent crime in Savannah and surrounding areas has risen to almost 450 through October and is expected to exceed 600 for the year," Colvin said in an interview with the *Savannah Morning News*.

Colvin also blamed reductions in state Medicaid reimbursements and unpaid care for charity and indigent patients. "We are the safety net for this community," Colvin told the *Savannah Morning News* in January 2008. "We have to stop being the free lunch."[vii]

Memorial investments

Memorial appears to invest most of its surplus funds in for-profit entities, though the system held a fair amount of non-interest bearing cash from Fiscal Year 2000 to 2005.

Cash and Investments, Per IRS Form 990

Memorial University Medical Center	**2000**	**2001**	**2002**	**2003**	**2004**	**2005**
Cash—Non-Interest Bearing	6,315,624	7,694,294	9,027,464	48,057,368	34,420,762	26,824,472
Savings and Temporary Cash Investments	0	0	0	0	0	0
Investments—Securities at FMV	0	0	0	0	0	0
Cash and Investments—Total	**6,315,624**	**7,694,294**	**9,027,464**	**48,057,368**	**34,420,762**	**26,824,472**

From 2002-2003, Memorial reported a significant jump in non-interest bearing cash holdings, and the number of entities held by the hospital system dropped significantly. It is unclear if the spike in cash holdings is linked to the drop in holdings.

Though it is nearly impossible to calculate the total value of Memorial's tax-exempt status, below is a chart evaluating the value of their land, buildings and equipment.

Land, Buildings and Equipment at Historical Cost

	2000	2001	2002	2003	2004	2005
Memorial University Medical Center	375,972,180	384,364,215	416,744,824	441,780,159	476,565,159	n/a
Memorial Foundation	37,490	66,766	10,255	25,251	25,251	n/a
Total Land, Building & Equip— Hosp. & Entities	**376,009,670**	**984,430,981**	**416,755,079**	**441,805,410**	**476,590,410**	**n/a**

Property taxes on land and building is assessed based upon appraised values. Appraised values may differ from historical cost. Generally, land and buildings increase in value over time, resulting in appraised values in excess of historical cost. All land and buildings belong to the hospital authority, not Memorial.

Days cash on hand

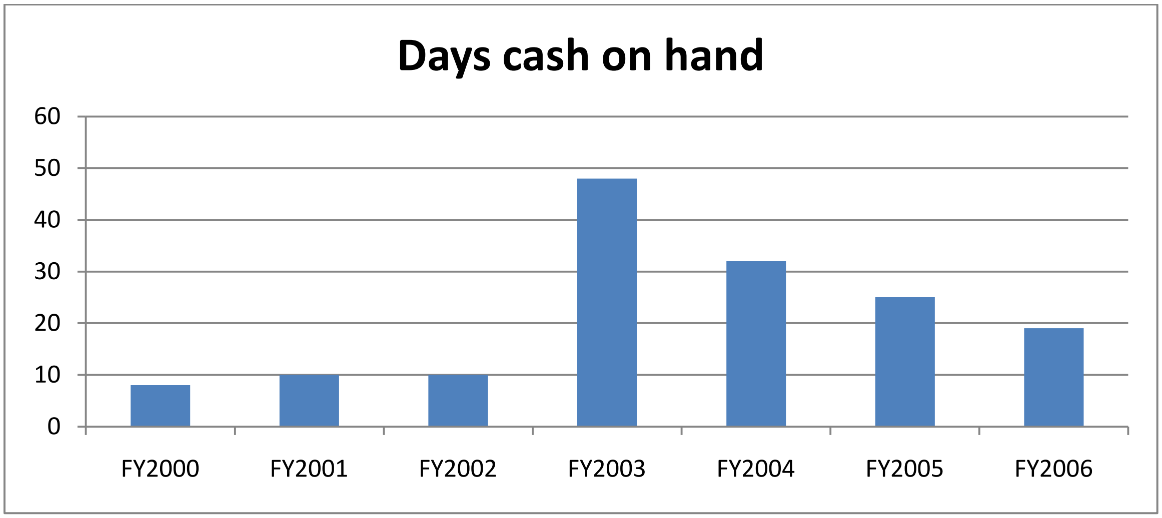
Nonprofit and for-profit hospitals alike keep cash "on hand" and other assets that can be quickly liquidated. "Days of cash on hand" measures how many days a hospital could operate if funded solely by working capital and investment assets, and serves as one method of assessing the size of a hospital's precautionary assets.[viii]

Moody's Investors Service calculates days of cash on hand as:

$$\frac{365 \times \text{Cash} + \text{Savings} + \text{Investment Assets}}{\text{Liabilities} - \text{Depreciation}}$$ [ix]

Based on IRS Form 990 fillings, and using Moody's days of cash on hand calculation, Memorial maintained an average of 145 days of cash on hand in 2007. According to the Congressional Budget Office, the median days of cash on hand for all rated tax-exempt nonprofit hospitals in 2004 was 146.3.

In recent years, Memorial has operated with dangerously low amounts of cash on hand that fluctuated greatly from 2002-2003, along with revenue and investment figures. In 2003, when the hospital system held a high level of days cash on hand, the amount was still only one-third of the national average. There is no immediate indication as to why the facility only has a limited amount of days cash on hand, or why there has been a fluctuation



The numbers reflect only the amount held by the hospital, and do not include figures from its foundation. All numbers are from Form 990s filed with the IRS.

Throughout Georgia, the number of days cash on hand for nonprofit hospitals greatly varied during 2005. For example, in Savannah, both Candler Hospital and St. Joseph's Hospital both had essentially no days of cash on hand in 2005. That same year, Phoebe Putney Memorial Hospital (Albany) held approximately 254 days cash on hand, John D. Archbold Memorial Hospital (Thomasville) held 137 days cash on hand, Athens Regional Medical Center (Athens) had approximately 71 days cash on hand, the Medical Center of Central Georgia (Macon) held 260 days cash on hand, and Henry Medical Center (Stockbridge) held 360 days cash on hand. In Atlanta, Grady Memorial Hospital had only 4.4 days cash on hand in 2005, while Northside had approximately 142 days cash on hand and Piedmont Hospital held 270 days cash on hand that same year.[x]

Currently, there is no limit on the assets a tax-exempt nonprofit hospital can divert into precautionary savings.

As a practical matter, tax-exempt nonprofit hospitals are rewarded by financial markets for maintaining precautionary savings. Hospitals with larger stockpiles of precautionary savings are given higher credit ratings by bond-rating agencies. In turn, a high credit rating enables a hospital to access financing options at lower interest rates.[xi] This is generally how for-profit companies are measured, and the amount of that cash Memorial has on hand is a good indicator of financial health.

COMMUNITY BENEFITS

Affordability

According to a report recently released by Harvard University, approximately half of all Americans who file for bankruptcy in the United States do so because of medical bills. Three-quarters of those patients had health insurance at the time of illness or injury.[xii] Of the 100 counties in the nation with the highest rates of bankruptcy, 45 are in Georgia.[xiii]

According to a study recently released by the California-based Commonwealth Fund, in 2007 approximately 25 million insured Americans under the age of 65 "did not have sufficient coverage last year to shield them from financial hardship if they ended up in the emergency room or were seriously ill." This represented a 60 percent increase over 2003.

The study claims the increase was due to rising health care costs and insurance plans that force policyholders to pay higher percentages of their medical bills. According to the study, the biggest increase was among middle-class families and those who buy individual policies or are covered through small employers that offer less generous health plans.

"Lack of insurance is only part of the problem, as even the insured have serious gaps in coverage," said Karen Davis, president of the Commonwealth Fund. Many of the underinsured skip needed medical care or avoid preventative care because of the cost, according to the study.

Cathy Schoen, the study's lead author, noted that, while states are working to decrease the number of uninsured, they also must address the quality of coverage being offered. In Massachusetts, for example, reformers are addressing both the cost of coverage and the need to provide sufficient coverage. "They've both lowered the rates of the uninsured and lowered the rates of the underinsured," Schoen said.[xiv]

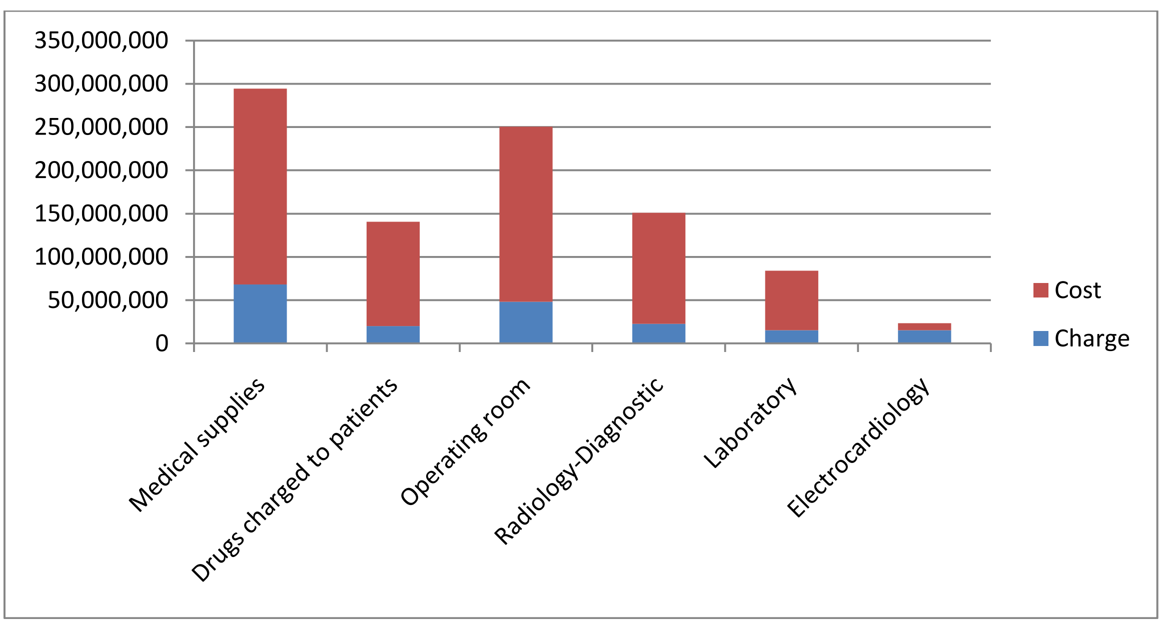
Hospital Pricing

Regulations and requirements associated with the ICTF and the tax-exempt status – not to mention their own founding missions – are meant to compel tax-exempt nonprofit hospitals to provide free and reduced charge medical care and services to eligible patients. Instead, hospital pricing practices targeting the medically uninsured discourage eligible patients from accessing reduced-cost health care.

While all patients are charged the same for services, only self-pay patients are actually expected to pay that amount. In fact, the uninsured pay as much as ten times more than HMOs, insurance companies and government programs such as Medicare.[xv] Because nobody negotiates a discount for the uninsured, these patients get stuck with unreasonable mark-ups, artificially inflated prices and enormous bills.

Government health insurance programs (Medicaid, Medicare and PeachCare) reimburse hospitals at rates determined by CMS, while private health insurance companies negotiate lower prices that often vary between markets. In a city like Savannah, where competition for most procedures is moderately high, insurance companies typically have more leverage to negotiate choice contracts and cheaper reimbursement rates for their enrollees.

As with many hospitals, mark-ups at Memorial and its affiliates are excessive, ranging from increases of 300 times over cost to more than 600 times over cost.[xvi]



In 2006, mark-ups at Memorial, expressed as a percentage, were:

- An overall 279 percent over cost;
- For medical supplies, a 331 percent mark-up;
- Drugs charged to patients were marked-up an average 604 percent;
- The use of the operating room for procedures were charged 420 percent over cost;
- Radiology-diagnostic procedures were marked-up 561 percent;
- Laboratory tests were charged 448 percent over cost; and,
- Electrocardiology services were marked-up 691 percent over cost.

That year, memorial granted an average 61 percent discount to private insurers. Only the uninsured are expected to pay the "sticker" price, though many without insurance qualify for free or low-cost care subsidized by the state. Mark-ups are often a result of reimbursements based on payor mix and source, and the inflation is meant to secure certain levels of payment from public and private insurance. Because of this, pricing is not market-driven but is instead reimbursement-driven.

Indigent and charity care

Tax-exempt nonprofit hospitals use a variety of terms to describe financial losses on services provided to the community. Though these descriptions aren't always uniform, they are generally defined as:

- **Charity care**: Health care services delivered to a patient with no expectation of payments for those services.
- **Indigent care**: Health care services for self-pay patients who are unable to pay any portion of their bill.
- **Bad debt:** Services that a patient is unwilling to pay for, and should never be included in community benefit.
- **Uncompensated care**: Health care services that are not paid for, regardless of the reason, and which may include charity care, bad debts and discounts for Medicaid and Medicare.

Charity care is not reported by revenues or accounts receivable, and is not considered in those calculations. Charity care amounts are not to be pursued by collections.

According to the American Hospital Association, hospitals collectively provide more than $22 billion in uncompensated care every year. For-profit and nonprofit facilities are reported to provide similar levels of uncompensated care. According to a 2000 Medicare Payment Advisory Commission report, the two were almost equal in the amount of uncompensated care they provided – about 4.6 percent of costs.

Harvard professor and hospital industry expert Nancy Kane testified before the House Ways and Means Committee in June 2004 that the tax exemptions given to nonprofit hospitals – and the community benefits those hospitals offer – often do not match. "The quantifiable value of hospital tax exemptions greatly exceeds the average cost of charity care provided," Kane said.[xvii]

In Chatham County, Memorial has traditionally carried the lion's share of care for indigent or charity patients. For example, in 2005 about 10.35 percent of Memorial's annual adjusted gross revenue (AGR) was dedicated to indigent and charity (I/C) care. By comparison, Candler Hospital provided 1.21 percent of their AGR towards I/C, and St. Joseph's Hospital provided 1.36 percent that same year.[xviii]

In 2005, Memorial wrote off approximately $70 million in I/C care, a figure that slightly surpassed Grady Memorial Hospital's $69.6 million written off for I/C care.

Georgia's Indigent Care Trust Fund

Tax-exempt nonprofit hospitals in Georgia also receive funds from state Indigent Care Trust Fund (ICTF), an 18-year-old program that expands Medicaid eligibility and services, supports rural health care facilities that serve the medically indigent, and funds primary health care programs for medically indigent Georgians.[xix] Georgia's Disproportionate Share Hospital program is funded through the ICTF, which helps assist hospitals and other health providers with funds to help offset financial losses on uninsured, underinsured and low-income individuals, as defined by the state plan in accordance with federal regulations.

In 2007, the US Centers for Medicare and Medicaid Services (CMS) proposed changes that would affect the future of their involvement with Georgia's ITCF, which relies on both state and federal funding. The program has traditionally worked as follows -- predetermined rules determine how much funds a hospital will receive. Their ITCF payments – a required state match of 42 percent – are considered an intergovernmental transfer to the state, who will use these funds to match federal dollars.

But the state has required from each hospital 50 percent of their gross ITCF payments, receiving in turn double that amount from federal sources. The state then required hospitals to set aside 15 percent of the gross funds it received for a state approved primary care plan. Additionally, the state collected 8 percent more from hospitals than required to match federal funds and it kept those funds predominantly to use in the required match to draw down Medicaid dollars, essentially using federal funds to draw down more federal funds; practices CMS has now halted as it violates federal law.

Medicaid and Medicare offerings

Memorial is the second-largest provider of Medicaid and charity care in Georgia. In 2005, Memorial provided approximately 35 percent of its AGR as Medicaid care.

In 2006, Memorial became a major player in the newly-formed A Community Coalition for Effective Sustainable Success (ACCESS), a group which aimed to increase Medicaid reimbursements. ACCESS members include the Georgia Chamber of Commerce, the Georgia Hospital Association and the Association of County Commissioners of Georgia. At the time, Memorial then-CEO Colvin assumed the role as chairman.

The coalition claimed in press reports and releases that state cuts in Medicaid reimbursements threaten access to and jeopardize care for low-income patients. The coalition also alleges that the state wastes available federal matching funds when it fails to adequately reimburse care for vulnerable populations.

State money surpasses federal funding matches by an almost 2:1 ratio. For example, if the state were to reimburse Memorial or another facility at 100 percent of cost, federal reimbursements would be about 60 percent. When state reimbursements are lowered, federal reimbursements are reduced at a proportionate rate.

According to ACCESS, Georgia pays hospitals about 84 cents for every dollar spent in providing care to Medicaid patients. Doctors are paid 30 percent less for treating those patients than what the federal government pays for the same care of Medicare patients.

"They've got a problem, a big problem," said State Rep. Ron Stephens (R-Savannah) in an October 2007 interview with the *Savannah Morning News.*[xx] Stephens sits on the Appropriations Subcommittee for Health. "To tell the truth, we (the state) are partly responsible for it."

Accessibility

Research shows that many patients do not know financial assistance is available at their nonprofit health care facilities. Generally speaking, tax-exempt nonprofit hospitals do not set aside a significant portion of marketing budgets to advertise free and low-cost medical services available to the community.

In 2003, the advocacy group Community Catalyst surveyed in person or by phone 60 tax-exempt nonprofit hospitals in nine communities, inquiring about free-care programs for low-income residents. In findings published in October 2004, the group reported that most callers were told that free care was not available. Emergency room care, they were told, would be provided without proof of ability to pay, but the callers were warned that the patients would be billed for services.

Relationships with area clinics

Memorial donated approximately $2 million in 2004 to community programs, including:

- J.C. Lewis Health Center, which offers a range of medical and psychiatric services to about 7,000 homeless people a year;
- Community HealthCare Center and Savannah Health Mission, which will combine in 2009 under Community Health Mission. The combined operation served 2,500 individuals last year, with an average of about four visits a year per patient, totaling 9,575 patient visits in 2001. Memorial will fund $275,000 to the combined mission; and
- Savannah Health Missions, using space at the Georgia Ear Institute on the campus of Memorial University Medical Center, relied on physician volunteers.[xxi]

It is crucial for all hospitals – but especially safety net hospitals – to maintain working relationships with area clinics to ensure a continuum of care for vulnerable patients. By establishing these relationships and managing patient cases, health costs for both the hospital and the consumer are lowered, as the consumer is likely to not utilize the emergency room as much, therefore incurring less charges, which can, in turn, lead to a greater chance of the patient being able to manage their medical debt, therefore relieving the chances of the hospital needing to utilize indigent care funds to pay for that care.

Level 1 trauma center and state funding initiatives

Established nearly two decades ago, the state trauma center network was created to revolutionize the care of potentially deadly injuries. But the cost of this care is high, and Georgia has few trauma centers, with only 15 certified centers available for the state's nearly 10 million residents. Of those, only four are Level 1 trauma centers and qualified to handle the most dangerous of injuries by an on-site team of surgeons, physicians and residents.

During the 2006 legislative session, a study committee was formed to examine the state's trauma network, including funding options. During the 2008 legislative session, high-ranking legislators sponsored measures to help fund the state trauma network. Among the initiatives were:

- Sen. Eric Johnson (R-Savannah) sponsored a bill to add a $10 fee to vehicle registration, which was projected to raise $74 million annually;

- Increased Medicaid reimbursement for hospitals with trauma centers;
- A joint House and Senate proposal to divert the .25 mill property tax levy already collected by the state to hospitals with trauma centers, with a projected amount of $90 million;
- Increasing fines for those guilty of driving at speeds more than 15 miles above the posted speed limit, referred to by Gov. Sonny Perdue as the “super speeder” measure, which was projected to raise approximately $25 million annually; and
- Levying a surcharge on purchases of disposable cell phones, as proposed by Rep. Harry Geisinger (R-Roswell).

None of the initiatives became law and the session ended with no solution to the state’s underfunded trauma network.

In June 2008, the Georgia Trauma Care Network Commission provided approximately $58.9 million in trauma funding throughout the statewide network of 15 trauma centers. Of that amount, Memorial received $5.66 million. The allocation for Memorial, though, was less than the average per-patient funding received by the trauma hospitals. Memorial received approximately $3,625 a patient; the state average was $4,229.[1]

Memorial's trauma center created a $7 million to $8 million deficit, or about 25 percent of their estimated total deficit, in 2007.[1]

"The trauma system has been thrown a leaky life ring," Dr. Arthur Kellerman, associate dean for health policy at Emory University and an emergency room physician at Grady Memorial, told the Associated Press at the time. He warned that if there were no permanent funding plans in place, "all we're doing is delaying by 12-15 months the collapse of the system."[1]

MEMORIAL IN COURT

In February 2008, Memorial agreed to pay $5.08 million to settle a False Claims Act and Stark Law violation suit based on allegedly excessive payments made to hospital-employed ophthalmologists at their nonprofit entity, Georgia Eye Institute, between January 2003 and December 2006.

The government’s investigation was initiated by a suit filed by physician Ryan Boland, who claimed Memorial funneled yearly stipends to affiliated eye-specialists based partly on how many patients they referred to the hospital. Boland once worked at the Georgia Eye Institute, though was reportedly fired after refusing to participate in the scheme. Boland now owns and operates the Boland Eye Center in Savannah. He received approximately $889,000 from the settlement for his role as a whistle-blower.

The suit alleged that Memorial received federal reimbursement for services referred by ophthalmologists who were compensated “at levels that were not commercially reasonable,” violating the Stark Law, an act passed in part by Congress in 1993 that prohibits the act of physician self-referral, or the act of a physician referring a patient to a medical facility in which it holds some financial interest.

According to press reports and court documents, Boland's suit claimed Memorial paid the institute $500,000 to $600,000 a year for teaching services and indigent care, but the money wasn't being distributed equitably to the doctors who performed those services. Instead, the payments went to doctors the hospital wanted to retain, based on the value of their patient referrals to Memorial.

The suit also accused Memorial and others of violating the False Claims Act, which makes illegal the act of knowingly soliciting a false claim from the federal government which, in this case, was the Medicare program.

Filed in US District Court in Savannah, the settlement agreement specifies that Memorial has admitted no wrongdoing, and “denies and disputes” the allegations. "We settled because it was in the best interest of this community, as well as Memorial, because of the cost of continuing to fight this litigation," said Memorial compliance officer Mary Ann Bowman Bell.

MEMORIAL AT THE STATE CAPITOL

Memorial staffs at least one lobbyist at the Capitol in a given year. According to forms filed with the Secretary of State’s office, Memorial’s main lobbyist has largely focused on trauma care issues over the past few years.

CONCLUSION

Elected officials, community leaders, employee representatives, patients and other stakeholders must work to identify and confront the underlying problems preventing all Georgia citizens from accessing quality medical services.

Models for Legislative Change

Effective January 1, 2007, the Illinois Fair Patient Billing Act established the following standards to which Illinois’ tax-exempt nonprofit hospitals are held:

- Hospitals are required to conspicuously post signage in the admission and registration areas of the hospital notifying patients of the availability of financial assistance.
- Hospitals are required to make available financial assistance information in the form of a brochure or application in the hospital admission or registration area.
- Hospital bills must include:
    - A description of hospital services rendered and amounts owed by the patient;
    - Hospital contact information for billing inquiries;
    - Information on applying for financial assistance; and
    - A notice that a patient may request an itemized bill.
- Hospitals will not pursue legal action for non-payment of a hospital bill against uninsured patients who have demonstrated that they have insufficient income and assets to meet their financial obligations.
- Hospitals and their agents may only pursue collection actions after the uninsured patient has been given the opportunity to assess the accuracy of the bill, apply for assistance under the hospital's financial assistance policy, and avail themselves of a reasonable payment plan.

Policy Recommendations:

Further development of infrastructure of statewide trauma network: The state should work to link all ambulance services to specialty services by regionalizing the statewide trauma network, identifying areas where trauma care is lacking, and working with hospitals in those areas to bolster trauma care offerings.

Affordability: Charges to patients should be fair and clearly explained at the time of admission to the hospital, as well as a uniform system of sliding fee scales based on an individual's ability to pay as well as a unified system of screening patients for eligibility in medical assistance programs.

Notice of financial assistance: Tax-exempt nonprofit hospitals should employ a standardized system of advising the public of available free and reduced charge services, the terms of eligibility for accessing these services, the application process for accessing these services, and the person or office to which pricing complaints or questions should be directed.

Transparency: State lawmakers should create and enact definitions for the terms "indigent care," "charity care" and "bad debt" that are based on cost instead of marked-up charges and inflated hospital pricing schedules. Any state regulatory body, including county taxing authorities and the state Department of Community Health, could utilize these definitions in determining and assessing the financial performance of Georgia's tax-exempt nonprofit health care facilities.

The determination of reported charity care, and indigent care services and supplies, should be based on the facility's average negotiated discounted rates with both private and public insurers, not the "sticker price," or marked-up charges or "chargemaster" rates of the facility.

Oversight: The state Department of Revenue should conduct annual audits and certifications of tax-exempt nonprofit entities in Georgia.

Assessments to evaluate real value of tax-exempt status: County taxing authorities should annually assess the property holdings of tax-exempt nonprofit health care facilities to ensure the community is receiving a comparable benefit for its loss of property tax revenue.

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[i] According to the GHA, this law has not changed since 1969.
[ii] Nonprofit Hospital Systems: Survey on Executive Compensation Policies and Practices, United States Government. Accountability Office, June 2006, http://www.gao.gov/new.items/d06907r.pdf.
[iii] Ibid.
[iv] Chatham County Safety Net Planning Council 2006 Evaluation Summary
[v] Those numbers were not immediately available, as the IRS Form 990 for each year was not made public at time of authorship of the report. Efforts were made to receive copies from Memorial, though those efforts were unsuccessful.
[vi] "Memorial CFO out amid wave of red ink," *Savannah Morning News,* Dec. 2, 2006.
[vii] "Memorial University could see black by year's end, CEO says," *Savannah Morning News,* Jan. 19, 2008.
[viii] Nonprofit Hospitals and Tax Arbitrage, The Congress of the United States, Congressional Budget Office, December 2006, http://www.cbo.gov/ftpdocs/76xx/doc7696/12-06-HospitalTax.pdf, p. 20
[ix] Moody's Investors Service, *Moody's Public Finance Healthcare Ratings* (August 2005), p. 23
[x] All numbers reflect figures from the facility itself, and do not reflect investments and holdings by foundations or other related entities. All numbers are from Form 990s filed with the IRS.
[xi] Nonprofit Hospitals and Tax Arbitrage, The Congress of the United States, Congressional Budget Office, December 2006, http://www.cbo.gov/ftpdocs/76xx/doc7696/12-06-HospitalTax.pdf, p. 20
[xii] "Medical Bills Trigger Half of All Bankruptcies," MSNBC, Feb 02, 2005.
[xiii] "Borrower Beware," *Atlanta Journal-Constitution,* Feb. 02, 2005.
[xiv] "Ranks of uninsured are rising, study finds," *New York Times*, June 10, 2008.
[xv] "From the President: Hospital Overcharging." *Journal of American Physicians and Surgeons*. Volume 11. Number 1. Spring 2006.
[xvi] As provided by the Web site http://www.hospitalvictims.org, who pulls financial information from yearly forms submitted to the Centers for Medicaid and Medicare Services.
[xvii] "Scales tipping against tax-exempt hospitals," *USA Today,* Aug. 24, 2004.
[xviii] Candler Hospital and St. Joseph's Hospital work in a joint operating agreement, though the indigent care numbers listed reflect each individual facility.
[xix] Information from the Georgia Department of Community Health.
[xx] "Memorial's deficit expected to climb," *Savannah Morning News,* Oct. 05, 2007.
[xxi] "Clinics for the uninsured combine efforts," *Savannah Morning News,* April 24, 2007.